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Attorneys for Plaintiff League of Wilderness Defenders/Blue Mountains  
Biodiversity Project

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF OREGON**

**LEAGUE OF WILDERNESS DEFENDERS /**  
**BLUE MOUNTAINS BIODIVERSITY PROJECT**

Plaintiff,

v.

**SLATER R. TURNER, *et al.*,**

Defendants.

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) Case No. 2:16-CV-01648-MO  
)  
)  
) **DECLARATION OF JESSE A.**  
) **BUSS IN SUPPORT OF**  
) **PLAINTIFF'S AMENDED BILL**  
) **OF COSTS**

I, Jesse A. Buss, declare and if called as a witness would testify as follows:

1. The concurrently-filed Amended Bill of Costs seeks costs necessarily incurred by Plaintiff in this action. Plaintiff filed its initial Bill of Costs (ECF No. 37) on June 30, 2017 relying on the Court's June 19, 2017 order granting Plaintiff's motion to dismiss its claims pursuant to FRCP 41 (ECF No. 36) as the equivalent of a "judgment" in Plaintiff's favor.
2. On July 6, 2017, however, the Court entered a subsequent order "adjudg[ing] that Plaintiff's claims are dismissed without prejudice," (ECF No. 39), which is even more clearly the "judgment" contemplated by LR 54-1(a)(1). Plaintiff therefore is amending and refileing its initial Bill of Costs (ECF No. 37) within 14 days of the Court's July 6th "judgment," as required by LR 54-1(a)(1).
3. The costs listed in the accompanying Bill of Costs form are correct and were necessarily incurred in this matter.
3. The Itemization attached hereto as Exhibit 1 truly and accurately reflects the costs necessarily incurred in this action.
4. Exhibit 2, attached hereto, is a true and correct copy of the August 15, 2016, receipt for the \$400.00 civil filing fee for this action.
5. Exhibit 3, attached hereto, contains true and correct copies of the check and invoice for the \$166.07 transcript fee paid for this action on November 10, 2016.
6. Plaintiff is a "prevailing party" under FRCP 54(d)(1), LR 54-1(a)(1), and 28 U.S.C. § 2412(a)(1) because Plaintiff obtained significant court-ordered relief that accomplished the main purposes of its lawsuit when the Court granted Plaintiff's motion for a preliminary injunction (ECF No. 25) at the October 6, 2016 hearing based on a finding that Plaintiff was likely to prevail on at least some of its claims, and Defendants subsequently withdrew the

challenged agency action (ECF No. 24). *Turner v. Vilsack*, 2016 WL 1048893, \*3-5 (holding that after Rule 41 dismissal plaintiff was prevailing party when it had obtained a preliminary injunction based on a likelihood of success on merits and agency then rescinded challenged agency action, citing and discussing controlling Ninth Circuit case law); *see also Watson v. Cty. of Riverside*, 300 F.3d 1092, 1095-96 (9th Cir. 2002) (cited by *Turner*).

**I declare under penalty of perjury under the laws of the  
United States that the foregoing is true and correct.**

Executed on July 20, 2017 in Oregon City, Oregon.

Dated July 20, 2017

Respectfully submitted,

s/ Jesse A. Buss

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